Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at http://about.jstor.org/participate-jstor/individuals/early-journal-content.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

of poisons and patent medicines. (Thomas *v.* Winchester, 6 N. Y., 397, 57 Am. Dec., 455; Blood Balm Co. *v.* Cooper, 83 Ga., 457, 10 S. E., 118, 5 L. R. A., 612, 20 Am. St. Rep., 324.) For negligently bottling beer with broken glass in the bottle. (Watson *v.* Augusta Brewing Co., 124 Ga., 121, 52 S. E., 152, 1 L. R. A. (N. S.), 1178, 110 Am. St. Rep., 157.) For negligent preparation of mincemeat put up in a package. (Salman *v.* Libby, 219 Ill., 421, 76 N. E., 573.) For the careless and negligent canning of spoiled meat. (Tomlinson *v.* Armour & Co., 75 N. J. L., 748, 70 Atl., 314, 19 L. R. A. (N. S.), 923.) See also Bishop *v.* Weber (139 Mass., 411, 1 N. E., 154, 52 Am. Rep., 715).

So when the manufacturer of this beverage undertook to place it on the market in sealed bottles, intending it to be purchased and taken into the human stomach, under such circumstances that neither the dealer nor the consumer had opportunity for knowledge of its contents, he likewise assumed the duty of exercising care to see that there was nothing unwholesome or injurious contained in said bottles. For a negligent breach of this duty the manufacturer became liable to the person damaged thereby.

Practically all the modern cases are to the effect that the ultimate consumer of foods, medicines, or beverages may bring his action against the manufacturer for injuries caused by the negligent preparation of such articles. This is certainly true where the articles are sold in sealed packages and are not subject to inspection. Some of the cases place the liability on the grounds heretofore stated. Others place it on pure-food statutes. Others say there is an implied warranty when goods are dispensed in original packages, which is available to all damaged by their use, and another case says that the liability rests upon the demands of social justice. See the cases collected in a note to Mazetti *v.* Armour & Co. (48 L. R. A. (N. S.), 213, 219) and in a note to Tomlinson *v.* Armour & Co. (19 L. R. A. (N. S.), 923).

Upon whatever ground the liability of such a manufacturer to the ultimate consumer is placed, the result is eminently satisfactory, conducive to the public welfare and one which we approve.

The judgment of the Court of Civil Appeals is affirmed.

NEW YORK SUPREME COURT, APPELLATE DIVISION, SECOND DEPARTMENT.

Druggists—Registration—New York Law Held to be Reasonable and Valid.

PEOPLE v. ROEMER, 153 N. Y. Supp., 323. (May 7, 1915.)

The New York law requiring places where drugs are retailed to be registered annually is a moderate and lawful exercise of the police power, and is valid.

The fact that storekeepers who are not pharmacists are permitted to sell certain drugs in small villages and country places distant from a drug store, while licensed pharmacists are required to register annually, is not such discrimination as to render the law unreasonable and void.

PER CURIAM: The plaintiffs have recovered a penalty of $50 for a violation by defendant of the public health law relating to the practice of pharmacy. Chapter 422, Laws 1910, section 234 of the act, provides that every place in which drugs are retailed "shall be annually registered in the month of January by the board as conducted in full compliance with law and the rules." The statute provides for a registration fee of $2. The defendant did not pay the fee; hence he did not receive his certificate; hence he did not display the certificate. Therefore he violated the law. He makes three complaints: (1) That he is a licensed druggist, and that the statute impairs his right to pursue his occupation; (2) that the exaction of the fee is oppressive and arbitrary; (3) that storekeepers, not druggists, may under conditions do what he (a skilled druggist) may not do under other conditions.

So far as it concerns the present question, a licensed druggist is not denied the right to follow his occupation, but the State exacts that the place where he carries

on his business shall be registered every year, so that it may be kept under cognizance. The State may require pharmacists to register annually. (Reetz *v.* Michigan, 188 U. S., 505; 23 Sup. Ct., 390; 47 L. Ed., 563.) The present statute is a quite moderate and lawful exercise of the police power. (State of Minnesota *v.* Hovorka, 100 Minn., 249, 110 N. W. 870; 8 L. R. A. (N. S.), 1272; 10 Ann. Cas., 398.) The fee for the registration is suitable and appropriated to meet the expense of the bureau. (Public health law, section 231.)

Section 234 of that law allows, in places of 1,000 inhabitants or less, storekeepers to sell medicines and poisons for a period not exceeding one year upon the payment of a fee of $3. "The storekeeper's certificate is limited to the village or place where the storekeeper resides and may be limited to the sale of certain classes of poisons sold only in original packages and put up by a licensed pharmacist whose name and business address is displayed on the package."

The question, then, is whether, in districts with small populations distant 3 miles from a pharmacy or drug store, the State may license a layman to sell drugs and elsewhere require the vendor to be of prescribed knowledge and skill. The storekeeper is not authorized to compound medicines, and, like pharmacists, he "is responsible for the strength, quality, and purity of all drugs sold or dispensed by him, subject to the guaranty provisions of this article," and is subject to section 237 of the law, which relates to "adulterating, misbranding, and substituting." The function permitted the storekeeper is comparatively much inferior to the powers of a pharmacist or druggist, while the responsibilities imposed upon him are substantially the same. But under the same conditions each has the same privileges. The question is whether for the sale of poisons and medicines, which must necessarily mean prepared medicines (that is, such as do not require compounding by the vendor), the State must compel dwellers in sparsely settled districts to resort to a pharmacy or drug store, however distant, for articles that may be needed for poisons or medicines. That would mean that a farmer must go beyond his locality to purchase poisons used in his business, if a pharmacist has not settled within convenient reach, and that medicines prepared or sold in packages, however pressing the exigency, must under the same conditions be sought beyond the locality. That would be a denial of the convenient purchase of necessaries and permit pharmacists, who shun scattering communities, to monopolize a trade at centers to which their traffic would not tend. Because a pharmacist must study and acquire knowledge to be such, it does not follow that some of his inferior powers may not be committed to less trained men who reside where persons of his class do not carry on business. That matter was considered satisfactorily in State of Minnesota *v.* Donaldson (41 Minn., 74, 42 N. W. 781), although in that case it was required that the merchandise sold be "put up by a registered pharmacist." But it is inconceivable that a storekeeper would sell poisons not prepared pursuant to the direction of a chemist, or medicines not prepared by a similarly skilled person.

The judgment should be affirmed, with costs.